

FLATHEAD CITY-COUNTY BOARD OF HEALTH  
AGENDA ITEM  
EXECUTIVE SUMMARY FOR ACTION ON RULE INITIATION

**(Agenda Item IX)**

**Agenda Item Summary.** The Department requests the Board re-initiate rulemaking to amend the Flathead County Air Pollution Control Program.

**Affected Parties Summary.** These amendments will affect all persons in Flathead County that conduct open burning and other persons conducting activities that can cause significant impacts to Flathead County air quality including activities such as allowing the use of unpaved roads and parking lots, applying sanding material to roads and parking lots, construction and demolition activities, clearing of land greater than ¼ acre in size and road and parking lot maintenance.

**Background.** The Department requests the Board initiate rulemaking to make changes to Chapter IX - Enforcement, Judicial Review, and Hearings, Chapter X – Civil Penalties section of the regulations and to add new Chapter XI, establishing criminal penalties in certain circumstances. The Department also requests the boundaries of the three air pollution control districts be modified. The Department also requests changes to Rules 502, 602 and 702 to streamline the permitting process for construction and demolition activities in each of the designated city-county air pollution control districts. Other changes requested are editorial in nature creating consistency between the Flathead County program and the Administrative Rules of Montana. Although the Board did take up this matter in 2007, the Montana Department of Environmental Quality presented concerns with the proposed rules and the Department asked the Board to delay their decision. That request was granted.

The Montana Codes Annotated, Section 75-2-301 allows for the creation of local air pollution control programs that are consistent with state and federal regulations (see enclosure).

**Board Options. The Board may:**

1. Initiate rulemaking and schedule a public hearing;
2. Determine that the modification of the rule is not appropriate and decline to initiate rulemaking at this time; or
3. Direct the Department to make modifications to the rule and proceed.

**Department Recommendation.** The Department recommends amending the Flathead County Air Pollution Control Program with the modifications requested in this packet.

**Enclosures.**

1. Draft of proposed amendments to the Flathead County Air Pollution Control Program